

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RX MEDICAL, LLC, ROK SALES, LLC, and)
ROK MEDICAL MANAGEMENT, LLC,)

Plaintiffs,)

v.)

Case No. CIV-22-731-PRW

ROB MELTON, JUSTIN POOS, BRADY)
CLINE, TODD PERRY, SHELBY BULLARD,)
GREG MASON, JOSH MCDONALD, KRISTY)
MOORE, DIGSS INVESTMENTS, LLC,)
STRYKER CORPORATION, SUMMIT SPINE)
SOLUTIONS, LLC, and RD MEDICAL, LLC,)

Defendants.)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE, pursuant to 28 U.S.C. §§ 1331 and 1446, that Defendants Rob Melton, Justin Poos, Brady Cline, Todd Perry, Shelby Bullard, Greg Mason, Josh McDonald, Kristy Moore, DIGSS Investments, LLC, Stryker Corporation, Summit Spine Solutions, LLC, and RD Medical, LLC (“Defendants”), remove this action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma.¹ The grounds for removal of this action are as follows:

1. On or about August 19, 2022, Plaintiffs RX Medical, LLC, ROK Sales, LLC, and ROK Medical Management, LLC (“Plaintiffs”) filed their Verified Petition (“the Petition”) in the District Court of Oklahoma County, State of Oklahoma. The United States

¹ No admission of fact, law or liability is intended by this Notice of Removal, and Defendants expressly reserve all defenses, affirmative defenses, and motions otherwise available to them.

District Court for the Western District of Oklahoma, is, therefore, the District Court of the United States for the district and division embracing the place where Plaintiff's civil action is pending. *See* 28 U.S.C. § 1441(a).

2. All Defendants with the exception of RD Medical, LLC and Summit Spine Solutions, LLC were served with process between August 19, 2022 and August 21, 2022. The District Court of Oklahoma County also entered an *ex parte* Temporary Restraining Order on August 19, 2022, the same day that the Petition was filed. Copies of the pleadings filed in the District Court are attached hereto as **EXHIBITS 1-5**.² This Notice of Removal is timely filed because it is filed within thirty days of Defendants' receipt of the Complaint. *See* 28 U.S.C. § 1446(b)(1).

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as the Petition alleges claims arising under the Constitution, laws, or treatises of the United States of America. Specifically, the Petition alleges that the Defendants violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.* This Court has supplemental jurisdiction of the state law claims asserted in the Petition pursuant to 28 U.S.C. § 1367. All of the Defendants have consented to this removal.

² At the same time that Plaintiffs filed the Petition, they also filed an Emergency Motion for Temporary Restraining Order and Temporary Injunction, along with a Notice of Hearing setting that Emergency Motion for hearing on August 24, 2022. Despite that hearing date, the District Court for Oklahoma County entered an *ex parte* Temporary Restraining Order, without bond or notice to the Defendants, on the same day that the Petition was filed.

4. Pursuant to 28 U.S.C. § 1446(d), Defendants are giving Plaintiffs written notice of the filing of this Notice of Removal and are filing a copy of this Notice of Removal with the clerk of the District Court of Oklahoma County. A true and correct copy of the Notice of Filing of Notice of Removal that Defendants are filing with the District Court of Oklahoma County (exclusive of exhibits), is attached hereto as **EXHIBIT 6**.

5. As further required by LCvR81.2, a true and correct copy of the state court docket sheet is attached as **EXHIBIT 7**.

WHEREFORE, Defendants remove this action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma, and Defendants request that this Court assume jurisdiction over this action and make such further orders herein as may be needed to properly resolve this controversy.

Respectfully submitted,

/s/ Kiran A. Phansalkar

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August 2022, a true and correct copy of the above and foregoing instrument was mailed, via U.S. First Class Mail, postage prepaid, to the following:

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/s/ Kiran A. Phansalkar

Kiran A. Phansalkar